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JC07 Rec'd PCT/PTO 16 NOV 2001

PATENT

Attorney Docket No. 044574-5040-US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Patrick C. KUNG et al. )  
Application No. 09/830,033 )  
Date of Nat'l. Stage Entry: April 20, 2001 )  
For: **PHYTOMICS: A GENOMIC-BASED** )  
**APPROACH TO HERBAL** )  
**COMPOSITIONS** )

Group Art Unit: Unassigned

Examiner: Unassigned

RECEIVED

DEC 10 2001

TECH CENTER 1600/2900

Commissioner for Patents  
Washington, D.C. 20231

Sir:

**PRELIMINARY AMENDMENT TRANSMITTAL FORM**

1. Prior to the examination of the above-identified application, transmitted herewith is a Preliminary Amendment.
2. Additional papers enclosed:

- Drawings:  Formal  Informal (Correction)  
 Information Disclosure Statement  
 Form PTO-1449, \_\_\_\_\_ references included  
 Citations  
 Declaration of Biological Deposit  
 Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

**Extension of Time**

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- X Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

- Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

Total Months <u>Requested</u>	Fee for <u>Extension</u>	[Fee for Small Entity]
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 400.00	\$ 200.00
<input type="checkbox"/> three months	\$ 920.00	\$ 460.00
<input type="checkbox"/> four months	\$ 1,440.00	\$ 720.00

Extension of time fee due with this request: \$ \_\_\_\_\_

**If an additional extension of time is required, please consider this a Petition therefor.**

4. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	81	minus	41	40	x \$18 each=	+ \$ 720
Independent Claims (37 C.F.R. §1.16(b))	18	minus	6	12	x \$84 each=	+ \$1,008
[ ] First presentation of Multiple dependent claim(s)					\$280.00	+ \$
SUB-TOTAL =						\$1,728
Reduction by ½ for filing by a small entity						- \$ 864
TOTAL FEE =						\$ 864

5. Fee Payment

- No fee is to be paid at this time.
- Check no. **113379** in the amount of **\$864.00**. The Commissioner is hereby authorized to charge any additional extension of time fee or additional fee for claims due to Deposit Account No. 50-0310.

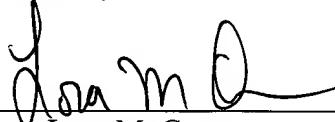
6. Constructive Petition

- EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:



Lora M. Green  
Reg. No. 43,541

Dated: November 16, 2001

**CUSTOMER NO. 09629**

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